UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

In re: Nexium (Esomeprazole Magnesium) Antitrust Litigation This Document Relates to: All Actions	MDL No. 2409 Civil Action No. 1:12-md-02409-WGY

ASTRAZENECA'S OPPOSITION TO PLAINTIFFS' MOTION *IN LIMINE* TO PRECLUDE DEFENDANTS FROM INTRODUCING EVIDENCE OCCURRING ON OR AFTER MAY 27, 2014

AstraZeneca joins in Teva and Ranbaxy's oppositions (ECF Nos. 1090 & 1091) to Plaintiffs' Motion *in Limine* (ECF No. 1071), and writes separately to add as follows:

1. Plaintiffs intend to ply the jury with theory after speculative theory about what might have happened to Teva's generic Nexium ANDA had AstraZeneca and Teva not settled their patent litigation. Plaintiffs now propose that, at the same time, they be permitted to keep from the jury the most relevant evidence that possibly could bear on this question—what actually *did* happen. *See* ECF No. 857 at 7 & n.1 ("all truths are not for telling"). That neither Teva nor any of the other twelve Nexium ANDA filers has yet received final FDA approval is clearly relevant to whether Teva could have obtained final FDA approval for its generic Nexium product in the absence of the AstraZeneca-Teva settlement agreement.

2. Plaintiffs offer no basis—and there is none—to preclude AstraZeneca from making this point to the jury. Plaintiffs certainly do not suggest (nor could they) that AstraZeneca withheld any discovery bearing in any way on the absence of any generic approvals today.

For these reasons as well as those identified in Teva and Ranbaxy's oppositions, Plaintiffs' motion *in limine* asking the Court to issue a blanket ruling precluding all post-May 27, 2014 evidence should be denied.

Dated: October 20, 2014

Respectfully submitted,

/s/ Dane H. Butswinkas

Dane H. Butswinkas (*pro hac vice*)
John E. Schmidtlein (*pro hac vice*)
Paul B. Gaffney (*pro hac vice*)
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, DC 20005
Ph: 202-434-5000
Fax: 202-434-5029
DButswinkas@wc.com
JSchmidtlein@wc.com
PGaffney@wc.com

Michael P. Kelly (*pro hac vice*)
MCCARTER & ENGLISH, LLP
Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, DE 19801
Ph: 302-984-6301
Fax: 302-984-2493
mkelly@mccarter.com

William A. Zucker, Esq., BBO # 541240
MCCARTER & ENGLISH, LLP
265 Franklin Street
Boston, MA 02110
617.449.6500
617.607.9200 (facsimile)
wzucker@mccarter.com

Counsel for AstraZeneca LP, AstraZeneca AB, and Aktiebolaget Hässle

CERTIFICATE OF SERVICE

I, James H. Weingarten, hereby certify that this document was electronically filed and served using the Court's ECF system on October 20, 2014.

/s/ James H. Weingarten
James H. Weingarten